



Strasbourg, 24/02/2005

CAHDI (2005) 2 Part II

**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW  
(CAHDI)**

**29th meeting  
Strasbourg, 17- 18 March 2005**

**EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL TREATIES:**  
**LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS**  
**TO INTERNATIONAL TREATIES: RESERVATIONS AND DECLARATIONS TO COUNCIL**  
**OF EUROPE TREATIES**

Secretariat memorandum  
Prepared by the Directorate General of Legal Affairs

## Foreword

1. At its second meeting (Paris, 14-16 September 1998) the Group of Specialists on Reservations to International Treaties (DI-S-RIT) agreed to propose to the CAHDI to operate as an European observatory of reservations to international treaties (see meeting report, document DI-S-RIT (98) 10).
2. In this context, the CAHDI regularly considers a list of outstanding reservations.
3. The following list includes two parts. Part I concerns reservations and declarations to treaties concluded outside the Council of Europe. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org/>.
4. Part II concerns reservations and declarations to Council of Europe treaties. Information was provided by the Treaty Office of the Directorate General of Legal Affairs of the Council of Europe and can be accessed via internet at the new URL <http://conventions.coe.int/>.
5. The format of the information is CONVENTION: **State reserving**, date of notification to the depository, date of notification by the depository (where those dates coincide they are indicated only once), deadline for objections. In as far as possible, the text of the reservation and declaration is included.

## Action required

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as a European observatory of reservations to international treaties.

1. **CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 5), 4 NOVEMBER 1950<sup>1</sup>**

**UNITED KINGDOM**, 1 April 2004, 5 May 2004, 4 May 2005

The Government of the United Kingdom declares that it extends the Convention to the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, being a territory for whose international relations the United Kingdom is responsible.

The Government of the United Kingdom declares on behalf of the above territory that the Government accepts the competence of the Court to receive applications as provided by Article 34 of the Convention.

**Note by the Secretariat:** The declarations have been formulated in accordance with Article 56 of the Convention.

**SERBIA AND MONTENEGRO**, 3 March 2004, 19 March 2004, 18 March 2005

Reservations

The provisions of Article 5, paragraphs 1[.c] and 3, of the Convention shall be without prejudice to the application of rules on mandatory detention. This reservation concerns Article 142, paragraph 1, of the Code of Criminal Procedure (Službeni list Savezne Republike Jugoslavije, Nos. 70/01, 68/02) of the Republic of Serbia, which provides that detention shall be mandatory if a person is under reasonable suspicion of having committed an offence for which the punishment is 40 years imprisonment.

While affirming its willingness fully to guarantee the rights enshrined in Articles 5 and 6 of the Convention, Serbia and Montenegro declares that the provisions of Article 5, paragraph 1[.c] and Article 6, paragraphs 1 and 3, shall be without prejudice to the application of Articles 75

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<sup>1</sup> *Relevant provisions ETS No. 5 :*

**"Article 34**

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

**"Article 56**

1 Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.

2 The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.

3 The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

4 Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

**"Article 57**

1 Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.

2 Any reservation made under this article shall contain a brief statement of the law concerned. "

to 321 of the Law on Minor Offences of the Republic of Serbia (Službeni glasnik Socijalističke Republike Srbije, No. 44/89; Službeni glasnik Republike Srbije, Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 65/2001) and Articles 61 to 225 of the Law on Minor Offences of the Republic of Montenegro (Službeni list Republike Crne Gore, Nos. 25/94, 29/94, 38/96, 48/99) that regulate proceedings before magistrates' courts.

The right to a public hearing enshrined in Article 6, paragraph 1, of the Convention shall be without prejudice to the application of the principle that courts in Serbia do not, as a rule, hold public hearings when deciding in administrative disputes. The said rule is contained in Article 32 of the Law on Administrative Disputes (Službeni list Savezne Republike Jugoslavije, No. 46/96) of the Republic of Serbia.

The provisions of Article 13 shall not apply in relation to the legal remedies within the jurisdiction of the Court of Serbia and Montenegro, until the said Court becomes operational in accordance with Articles 46 to 50 of the Constitutional Charter of the State Union of Serbia and Montenegro (Službeni list Srbije i Crne Gore, No. 1/03).

### **Brief Statement**

The Ministry of Foreign Affairs of Serbia and Montenegro makes the following statement in accordance with Article 57, paragraph 2, of the Convention, to supplement the information contained in the instrument of ratification deposited by Serbia and Montenegro on 3 March 2004.

The Ministry of Foreign Affairs of Serbia Montenegro has the honour to refer to the following reservation contained in the instrument of ratification:

“While affirming its willingness fully to guarantee the rights enshrined in Articles 5 and 6 of the Convention, Serbia and Montenegro declares that the provisions of Article 5, paragraph 1[c] and Article 6, paragraphs 1 and 3, shall be without prejudice to the application of Articles 75 to 321 of the Law on Minor Offences of the Republic of Serbia (Službeni glasnik Socijalističke Republike Srbije, No. 44/89; Službeni glasnik Republike Srbije, Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 65/2001) and Articles 61 to 225 of the Law on Minor Offences of the Republic of Montenegro (Službeni list Republike Crne Gore, Nos. 25/94, 29/94, 38/96, 48/99) that regulate proceedings before magistrates' courts.”

The relevant provisions of the laws referred to in this reservation regulate the following matters:

- proceedings before the magistrates' courts, including rights of the accused, rules of evidence and legal remedies (Articles 75 to 89 and 118 to 321 of the Law on Minor Offences of the Republic of Serbia and Articles 61 to 67 and 97 to 225 of the Law on Minor Offences of the Republic of Montenegro);
- establishment and organization of the magistrates' courts (Articles 68 to 96 of the Law on Minor Offences of the Republic of Montenegro and Articles 89a to 115 of the Law on Minor Offences of the Republic of Serbia); and
- measures for securing the presence of the accused (Articles 183 to 192 of the Law on Minor Offences of the Republic of Serbia).

The Ministry of Foreign Affairs of Serbia and Montenegro wishes to inform the Secretary General of the Council of Europe that Serbia and Montenegro shall withdraw the reservations contained in its instrument of ratification as soon as the legislation mentioned

therein has been brought into conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

**Note by the Secretariat:** In accordance with Article 57, paragraph 2, of the Convention, the reservations are accompanied by a brief statement of the law. The second reservation states that an important number of legislative provisions are currently not in conformity with the Convention. It does not, however, indicate which aspects of the procedure before the magistrates' courts are not in conformity with which Convention provisions. It will be ultimately for the European Court of Human Rights to decide upon the validity of the reservations.

**MONACO**, 5 October 2004, 19 October 2004, 18 October 2005

Declaration made at the time of signature of the treaty

The Principality of Monaco undertakes to respect the provisions of the Convention while emphasising that the fact that it forms a State with limited territorial dimensions requires paying special attention to the issues of residence and work as well as to social measures in respect of foreigners, even if these matters are not covered by the Convention.

**Note by the Secretariat:** Similar declarations have been formulated by San Marino and Andorra.

## 2. EUROPEAN CONVENTION ON EXTRADITION (ETS No. 24), 13 DECEMBER 1957<sup>2</sup>

**SLOVENIA**, 30 September 2004, 19 October 2004, 18 October 2005

In accordance with Article 28, paragraph 3 of the European Convention on Extradition, the Government of Slovenia declares that the Republic of Slovenia implemented the EU Council

<sup>2</sup> *Relevant provisions ETS No. 24:*

**"Article 27 – Territorial application**

- 1 This Convention shall apply to the metropolitan territories of the Contracting Parties.
- 2 In respect of France, it shall also apply to Algeria and to the overseas Departments and, in respect of the United Kingdom of Great Britain and Northern Ireland, to the Channel Islands and to the Isle of Man.
- 3 The Federal Republic of Germany may extend the application of this Convention to the *Land* of Berlin by notice addressed to the Secretary General of the Council of Europe, who shall notify the other Parties of such declaration.
- 4 By direct arrangement between two or more Contracting Parties, the application of this Convention may be extended, subject to the conditions laid down in the arrangement, to any territory of such Parties, other than the territories mentioned in paragraphs 1, 2 and 3 of this article, for whose international relations any such Party is responsible. "

**"Article 28 – Relations between this Convention and bilateral Agreements**

- 1 This Convention shall, in respect of those countries to which it applies, supersede the provisions of any bilateral treaties, conventions or agreements governing extradition between any two Contracting Parties.
- 2 The Contracting Parties may conclude between themselves bilateral or multilateral agreements only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.
- 3 Where, as between two or more Contracting Parties, extradition takes place on the basis of a uniform law, the Parties shall be free to regulate their mutual relations in respect of extradition exclusively in accordance with such a system notwithstanding the provisions of this Convention. The same principle shall apply as between two or more Contracting Parties each of which has in force a law providing for the execution in its territory of warrants of arrest issued in the territory of the other Party or Parties. Contracting Parties which exclude or may in the future exclude the application of this Convention as between themselves in accordance with this paragraph shall notify the Secretary General of the Council of Europe accordingly. The Secretary General shall inform the other Contracting Parties of any notification received in accordance with this paragraph."

Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States of the European Union by the Act on the European warrant and the surrender procedures. The Act entered into force on 1 May 2004 and is applicable to requests for surrender (extradition) among Member States made after that date and for offences committed after 7 August 2002.

The provisions of the Act on the European arrest warrant and the surrender procedures thereby replace the provisions of the European Convention on Extradition of 13 December 1957 and its two additional Protocols of 15 October 1975 and 17 March 1978, insofar as the Council Framework Decision on the European arrest warrant and the surrender procedures is applicable in relations between Slovenia and other Member States.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 28 of the Convention.

**IRELAND**, 15 October 2004, 3 November 2004, 2 November 2005

The Government of Ireland, in accordance with Article 28, paragraph 3, of the European Convention on Extradition, 1957, hereby notifies the Secretary General of the Council of Europe that Ireland shall apply the Framework Decision of the Council of the European Union (2002/584/JHA) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States in relation to Member States of the European Union, insofar as the Framework Decision is applicable in relations between Ireland and the other Member State.

The Government of Ireland hereby withdraws its declaration in relation to Article 28, paragraph 3, of the European Convention on Extradition, 1957, in relation to extradition arrangements between Ireland and the United Kingdom as transmitted by letter from the Permanent Representative to the Secretary General of the Council of Europe, dated 13 May 1991.

The Government of Ireland hereby notifies the Secretary General of the Council of Europe that Ireland shall apply the European Convention on Extradition, 1957, to the United Kingdom territories of the Channel Islands and the Isle of Man."

**Note by the Secretariat:** The declarations have been formulated in accordance with Articles 27 (territorial application) and 28 (relations between the Convention and bilateral Agreements) of the Convention.

**FRANCE**, 18 October 2004, 3 November 2004, 2 November 2005

The Government of the French Republic declares, in accordance with the provisions of Article 28, paragraph 3, of the Convention, that since the 12th of March 2004 regarding Paris and since the 13th of March 2004 regarding the rest of France, the provisions relating to the European arrest warrant, when implementable, replace the corresponding dispositions of the European Convention on Extradition of 13 December 1957 in the surrender procedures between Member States of the European Union.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 28 of the Convention.

**LUXEMBOURG**, 2 November 2004, 3 December 2004, 2 December 2005

In accordance with Article 28, paragraph 3, of the Convention, the Grand-Duchy of Luxembourg applies the Law of 17 March 2004 relating to the European arrest warrant and the surrender procedures between Member States of the European Union with respect to offences committed after 7 August 2002 in its relations with a State Member of the European

Union that has implemented the EU Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

The European Convention on Extradition of 13 December 1957 and the Additional Protocol of 15 October 1975 remain applicable to offences committed prior to 7 August 2002.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 28 of the Convention.

**CZECH REPUBLIC**, 14 January 2005, 26 January 2005, 25 January 2006

In accordance with Article 28, paragraph 3, of the Convention, the Czech Republic notifies that, as from 1 November 2004, it enacted legislation implementing the Framework Decision of the Council of the European Union of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA; hereinafter "framework decision on the European arrest warrant"), which the Czech Republic considers a uniform law as provided for by Article 28, paragraph 3, of the Convention, and which the Czech Republic will apply in relation to Member States of the European Union, which also apply legislation implementing the Framework Decision on the European arrest warrant. The European Convention on Extradition and its two Protocols of 15 October 1975 and 17 March 1978 will continue to apply in relation to Member States of the European Union on extradition of persons sought for offences committed before 1 November 2004.

The Czech Republic shall continue to apply Article 3 of the Treaty between the Czech Republic and the Slovak Republic on Mutual Assistance Rendered by Judicial Authorities and Regulation of Some Legal Relations in Civil and Criminal Matters, done in Prague on 29 October 1992, and Article XV of the Treaty between the Czech Republic and Austria on Supplementation to the European Convention on Extradition of 13 December 1957 and on Facilitation of its Application, done in Vienna on 27 June 1994, on whose basis the European arrest warrants and other documents are transmitted without translation into the official language of the requested State.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 28 of the Convention.

**3. EUROPEAN AGREEMENT ON REGULATIONS GOVERNING THE MOVEMENT OF PERSONS BETWEEN MEMBER STATES OF THE COUNCIL OF EUROPE (ETS No. 25), 13 DECEMBER 1957**<sup>3</sup>

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<sup>3</sup> *Relevant provisions ETS No. 25:*

**"Article 7**

Each Contracting Party reserves the option, on grounds relating to *ordre public*, security or public health, to delay the entry into force of this Agreement or order the temporary suspension thereof in respect of all or some of the other Parties, except insofar as the provisions of Article 5 are concerned. This measure shall immediately be notified to the Secretary General of the Council of Europe, who shall inform the other Parties. The same procedure shall apply as soon as this measure ceases to be operative.

A Contracting Party which avails itself of either of the options mentioned in the preceding paragraph may not claim the application of this Agreement by another Party save insofar as it also applies it in respect of that Party."

**"Article 11**

Any government wishing to sign or accede to this Agreement which has not yet drawn up its list of the documents mentioned in Article 1, paragraph 1, and appearing in the appendix, shall submit a list of such documents to the Contracting Parties through the Secretary General of the Council of Europe. This list shall be considered to be approved by all the Contracting Parties and shall be added to the appendix to this Agreement if no objection is raised within two months of its transmission by the Secretary General.

The same procedure shall apply if a signatory government wishes to alter the list of documents drawn up by it and embodied in the appendix."

**GERMANY**, 18 June 2004, 20 July 2004, 19 July 2005

The Federal Republic of Germany and Ukraine are Parties to the European Agreement of December 13<sup>th</sup>, 1957, on Regulations governing the Movement of Persons between Member States of the Council of Europe. The Federal Republic of Germany has decided to suspend the application of the Agreement with regard to Ukraine with immediate effect on the basis of Article 7 of the Agreement. This step is deemed to be necessary on public grounds. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of March 15<sup>th</sup>, 2001, concerning visas, Annex I of which stipulates that Ukraine is one of those States whose nationals must be in possession of visas when crossing the external borders.

**LUXEMBOURG**, 20 July 2004, 30 July 2004, 29 July 2005

The Grand Duchy of Luxembourg and Ukraine are Parties to the European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe of December 13<sup>th</sup>, 1957 (ETS No. 25). The Grand Duchy of Luxembourg has decided, on the basis of Article 7 of the Agreement, to suspend temporarily the application of the Agreement with regard to Ukraine. This step is deemed to be necessary on grounds relating to *ordre public* and to public security. Application of the Agreement with regard to Ukraine is against the Council Regulation UE 539/2001 of March 15<sup>th</sup>, 2001, concerning visas. Annex I of the said Regulation stipulates that Ukraine is one of those countries whose nationals must be in possession of a visa when crossing the European Union external borders.

**AUSTRIA**, 27 July 2004, 30 July 2004, 29 July 2005

The Republic of Austria and Ukraine are Contracting Parties to the European Agreement of December 13<sup>th</sup>, 1957, on Regulations governing the Movement of Persons between Member States of the Council of Europe. On the basis of Article 7 of the said Agreement, the Republic of Austria has decided to suspend with immediate effect the application of the Agreement with regard to Ukraine. This step is deemed to be necessary on grounds relating to *ordre public*. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of March 15<sup>th</sup>, 2001, the Annex I of which stipulates that Ukraine is one of those States whose nationals are bound by the obligation of visa when crossing the Member States external borders.

**BELGIUM**, 28 July 2004, 30 July 2004, 29 July 2005

The Kingdom of Belgium and Ukraine are Contracting Parties to the European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe of December 13<sup>th</sup>, 1957. The Kingdom of Belgium has however decided to suspend temporarily the entry into force of the Agreement with regard to Ukraine, with immediate effect, on the basis of Article 7 of the Agreement, if Ukraine ratifies this Agreement.

This step is deemed to be necessary on grounds relating to *ordre public*. Application of this Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of March 15<sup>th</sup>, 2001, the Annex I of which stipulates that Ukraine is one of those States whose nationals are bound by the obligation of visa when crossing the Member States external borders.



**NETHERLANDS**, 15 September 2004, 23 September 2004, 22 September 2005

The Kingdom of the Netherlands and Ukraine are Contracting Parties to the European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe of December 13th, 1957. The Kingdom of the Netherlands has however decided, if Ukraine ratifies this Agreement to suspend temporarily the entry into force of the Agreement with regard to Ukraine, with immediate effect, on the basis of Article 7 of the Agreement.

This step is deemed to be necessary on public policy grounds. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of March 15th, 2001 concerning visas, the Annex I of which stipulates that Ukraine is one of those States whose nationals must be in possession of visas when crossing the external borders of the European Union.

**Note by the Secretariat:** Ukraine has signed the Agreement on 18 February 2004 with reservation in respect of ratification and has not yet ratified it.

**GREECE**, 22 September 2004, 19 October 2004, 18 October 2005

The Hellenic Republic and Ukraine are Parties to the European Agreement of 13th December 1957 on Regulations governing the Movement of Persons between Member States of the Council of Europe. Following its declaration dated 2nd May 1959, the Greek Government declares that it has decided, in accordance with Article 7 of the Agreement, to suspend temporarily the entry into force of the Agreement in relation to Ukraine, should Ukraine ratify this Agreement.

This step is deemed to be necessary on grounds relating to ordre public. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of 15th March 2001, the Annex I of which stipulates that Ukraine is one of those States whose nationals are bound by the obligation of visa when crossing the Member States' external borders.

**Note by the Secretariat:** Ukraine has signed the Agreement on 18 February 2004 with reservation in respect of ratification and has not yet ratified it.

In accordance with Article 11 of the Agreement, the Government of Greece has decided to amend the list of documents mentioned in Article 1, paragraph 1, of the Agreement, as follows:

- Valid Greek Passport,
- Personal Identity Card,

thereby replacing the term "touristic identity card" with the term "personal identity card".

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 11 of the Agreement. As no objection was raised within two months, the amended list of documents is in force.

#### 4. **EUROPEAN CONVENTION ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS (ETS No. 73), 15 MAY 1972**<sup>4</sup>

<sup>4</sup> Relevant provisions ETS No. 73 :

##### "APPENDIX II

Any Contracting State may declare that for reasons arising out of its constitutional law it can make or receive requests for proceedings only in circumstances specified in its municipal law.

**ARMENIA**, 17 December 2004, 22 December 2004, 21 December 2005

In accordance with Appendix II, the Republic of Armenia declares that the term "national" within the meaning of this Convention refers to a person who is a national of the Republic of Armenia, as well as a person who has a status of refugee of the Republic of Armenia.

**Note by the Secretariat:** The declaration has been formulated in accordance with Appendix II of the Convention.

**5. EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM (ETS No 90), 27 JANUARY 1977**

**AZERBAIJAN**, 11 February 2004, 19 March 2004, 18 March 2005

The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Convention in its territories occupied by the Republic of Armenia until these territories are liberated from that occupation (*the schematic map of the occupied territories is enclosed*).

**Note by the Secretariat:** Azerbaijan formulated a similar declaration to a number of Council of Europe Treaties including the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

**6. EUROPEAN AGREEMENT ON THE TRANSMISSION OF APPLICATIONS FOR LEGAL AID (ETS No. 92), 27 JANUARY 1977<sup>5</sup>**

**SERBIA AND MONTENEGRO**, 9 February 2005, 11 February 2005, 10 February 2006

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Any Contracting State may, by means of a declaration, define as far as it is concerned the term "national" within the meaning of this Convention."

<sup>5</sup> *Relevant provisions ETS No. 92:*

**"Article 6**

1 Unless there are particular agreements between the authorities concerned of Contracting Parties and subject to the provisions of Articles 13 and 14:

a the application for legal aid and the documents attached thereto and any other communications shall be drawn up in the official language or in one of the official languages of the receiving authority or be accompanied by a translation into that language;

b each Contracting Party shall nevertheless accept the application for legal aid and the documents attached thereto and any other communications when they are drawn up in English or in French or are accompanied by a translation into one of these languages.

2 Communications emanating from the State of the receiving authority may be drawn up in the official language or one of the official languages of that State or in English or French. "

**"Article 13**

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it excludes wholly or partly the application of the provisions of Article 6, paragraph 1.b. No other reservation may be made to this Agreement.

2 Any Contracting Party may wholly or partly withdraw the reservation it has made by means of a declaration addressed to the Secretary General of the Council of Europe. The reservation shall cease to have effect as from the date of receipt of the declaration.

3 When a Contracting Party has made a reservation any other Party may apply the same reservation with respect to that Party. "

According to Article 13, paragraph 1, of the Agreement, Serbia and Montenegro excludes in full the implementation of the provisions of Article 6, par 1, sub-paragraph (b) of the Agreement.

**Note by the Secretariat:** The reservation made by Serbia and Montenegro has been formulated in accordance with Article 13, paragraph 1 of the Agreement.

**7. EUROPEAN CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES (ETS No. 116), 24 NOVEMBER 1983**<sup>6</sup>

**ALBANIA**, 26 November 2004, 26 January 2005, 25 January 2006

Regarding Article 2, paragraph 1 (b) of the Convention, the Republic of Albania declares that it defines the term "dependants" in conformity with the Albanian legislation as meaning "under age children, the spouse, disabled parents, who were entirely or partly dependent on the deceased person, as well as persons who lived in the family of the deceased person and were entitled to receive maintenance payments from such person".

**Note by the Secretariat:** The declaration formulated by Albania is an interpretative declaration of Article 2, paragraph 1 (b) of the Convention.

**8. PROTOCOL NO. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 117), 22 NOVEMBER 1984**<sup>7</sup>

**PORTUGAL**, 15 December 2004, 22 December 2004, 21 December 2005

By "criminal offences" and "offence" in Articles 2 and 4 of the present Protocol, Portugal understands only those acts which constitute a criminal offence under its internal law.

**Note by the Secretariat:** The declaration formulated by Portugal is an interpretative

<sup>6</sup> Relevant provisions ETS No. 116 :

**"Article 2**

- 1 When compensation is not fully available from other sources the State shall contribute to compensate:
  - a those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence;
  - b the dependants of persons who have died as a result of such crime.
- 2 Compensation shall be awarded in the above cases even if the offender cannot be prosecuted or punished."

<sup>7</sup> Relevant provisions ETS No. 117 :

**"Article 2 – Right of appeal in criminal matters**

- 1 Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.
- 2 This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal."

**"Article 4 – Right not to be tried or punished twice**

- 1 No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.
- 2 The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.
- 3 No derogation from this Article shall be made under Article 15 of the Convention."

declaration of Articles 2 et 4 of the Protocol No. 7. Germany and Italy have formulated similar declarations.

**LIECHTENSTEIN**, 8 February 2004, 11 February 2005, 10 February 2006

The Government of the Principality of Liechtenstein declares that only those offences which, under Liechtenstein law, fall within the jurisdiction of the Liechtenstein criminal courts may be regarded as offences within the meaning of Article 2 of this Protocol.

**Note by the Secretariat:** The declaration formulated by Liechtenstein is an interpretative declaration of Article 2 of the Protocol No. 7. Germany and Italy have formulated similar declarations.

**9. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (ETS NO. 122), 15 OCTOBER 1985<sup>8</sup>**

**BELGIUM**, 25 August 2004, 23 September 2004, 22 September 2005

In accordance with Article 13 of the Charter, the Kingdom of Belgium considers that it intends to confine the scope of the Charter to the provinces and municipalities. In accordance with the same Article, the provisions of the Charter do not apply to the "Centres publics d'Aide sociale" (CPAS) on the territory of the Brussels-Capital Region.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 13 of the Charter.

**GEORGIA**, 8 December 2004, 22 December 2004, 21 December 2005

Till the restoration of full jurisdiction of Georgia on the territories of Abkhazia and Tskhinvali Region, Georgia declines its responsibility for performing obligations under the paragraphs of the European Charter of Local Self-Government listed above in such territories.

**Note by the Secretariat:** Georgia formulated a similar declaration to a number of Council of Europe Treaties including the European Convention for the Prevention of Torture (ETS No. 126).

**10. CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME (ETS No. 141), 8 NOVEMBER 1990<sup>9</sup>**

<sup>8</sup> *Relevant provisions ETS No. 122 :*

**"Article 13 – Authorities to which the Charter applies**

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe."

<sup>9</sup> *Relevant provisions ETS No. 141 :*

**"Article 2 – Confiscation measures**

1 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds.

2 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies only to offences or categories of offences specified in such declaration."

**"Article 6 – Laundering offences**

(...)

**TURKEY**, 13 December 2004, 22 December 2004, 21 December 2005

In accordance with Article 2, paragraph 2, the Republic of Turkey declares that Article 2, paragraph 1 shall only apply to offences defined in its domestic legislation.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 2, paragraph 2 of the Convention. The offences or categories of offences are not specified.

In accordance with Article 6, paragraph 4, the Republic of Turkey declares that Article 6, paragraph 1 shall only apply to offences defined in its domestic legislation.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 6, paragraph 4 of the Convention. The predicate offences or categories of predicate offences are not specified.

The Republic of Turkey underlines the close connection among drug trafficking, organized crime and terrorism, and declares that it expects the Convention to be applied to the terrorist acts as mentioned in the Resolution No. 3, adopted at the 16th Conference of European Ministers of Justice held in 1988.

*Note by the Secretariat:* The declaration formulated by Turkey is an interpretative declaration of the Convention.

#### **11. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES (ETS No 157), 1 FEBRUARY 1995**

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**, 2 June 2004, 20 July 2004, 19 July 2005

Referring to the Framework Convention, and taking into account the latest amendments to the Constitution of the Republic of Macedonia, the Minister of Foreign Affairs of Macedonia submits the revised declaration to replace the previous two declarations on the aforesaid Convention:

The term “national minorities” used in the Framework Convention and the provisions of the same Convention shall be applied to the citizens of the Republic of Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniac people.

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1 Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:

a the conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;

b the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds; and, subject to its constitutional principles and the basic concepts of its legal system;

c the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;

d participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(...)

4 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe declare that paragraph 1 of this article applies only to predicate offences or categories of such offences specified in such declaration."

**Note by the Secretariat:** The Framework Convention does not contain a definition of the term "national minority". The original declaration formulated on 10 April 1997 read as follows: "The Republic of Macedonia declares that the term "national minorities" used in the Framework Convention for the Protection of National Minorities is considered to be identical to the term "nationalities" which is used in the Constitution and the laws of the Republic of Macedonia."

"The Republic of Macedonia declares that the provisions of the Framework Convention for the Protection of National Minorities will be applied to the Albanian, Turkish, Vlach, Roma and Serbian national minorities living on the territory of the Republic of Macedonia."

**THE NETHERLANDS**, 16 February 2005, 22 February 2005, 21 February 2006

The Kingdom of the Netherlands accepts the Framework Convention for the Kingdom in Europe.

The Kingdom of the Netherlands will apply the Framework Convention to the Frisians.

The Government of the Netherlands assumes that the protection afforded by Article 10, paragraph 3, does not differ, despite the variations in wording, from that afforded by Article 5, paragraph 2, and Article 6, paragraph 3 (a) and (e), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

**Note by the Secretariat:** The Framework Convention contains neither a definition of the term "national minority" nor provisions relating to reservations or declarations.

**12. EUROPEAN AGREEMENT RELATING TO PERSONS PARTICIPATING IN PROCEEDINGS OF THE EUROPEAN COURT OF HUMAN RIGHTS (ETS No. 161), 5 MARCH 1996**<sup>10</sup>

**TURKEY**, 13 December 2004, 22 December 2004, 21 December 2005

The Republic of Turkey declares that the provisions of Article 4, paragraph 2 (a), of the Agreement will not apply to its own nationals.

In respect of the application of paragraph 1 of Article 4, the foreign nationals referred to in paragraph 1 of Article 1 of the Agreement, must be in possession of the circulation documents required for entry into Turkey and obtain, if appropriate, the necessary visa. Those visas will

<sup>10</sup> *Relevant provisions ETS No. 161 :*

**"Article 4**

- 1 a The Contracting Parties undertake not to hinder the free movement and travel, for the purpose of attending and returning from proceedings before the Court, of persons referred to in paragraph 1 of Article 1 of this Agreement.
- b No restrictions shall be placed on their movement and travel other than such as are in accordance with the law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 2 a Such persons shall not, in countries of transit and in the country where the proceedings take place, be prosecuted or detained or be subjected to any other restriction of their personal liberty in respect of acts or convictions prior to the commencement of the journey.
- b Any Contracting Party may, at the time of signature, ratification, acceptance or approval of this Agreement, declare that the provisions of this paragraph will not apply to its own nationals. Such a declaration may be withdrawn at any time by means of a notification addressed to the Secretary General of the Council of Europe."

be issued in due time by the competent Turkish consular representatives, subject to the provisions of paragraph 1b of Article 4 of the Agreement.

**Note by the Secretariat:** The declarations have been formulated in accordance with Article 4 of the Agreement.

**GREECE**, 7 February 2005, 11 February 2005, 10 February 2006

The Government of Greece declares that it reserves the right not to apply the provisions of Article 4, paragraph 2 (a) of the Agreement to its own nationals.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 4 of the Agreement.

### **13. EUROPEAN SOCIAL CHARTER (revised) (No 163), 3 MAY 1996**

**ROMANIA**, 21 April 2004, 5 May 2004, 4 May 2005

The Permanent Representation of Romania informs the Secretariat that the instrument of ratification no. 490 deposited by Romania on 7 May 1999 contains an error. The said instrument of ratification states under item 1 that Romania considers itself bound by Article 26, while the Act no. 74 of 3 May 1999 by which the Parliament of Romania ratified the European Social Charter (revised) made no reference to Article 26.

The Permanent Representation of Romania to the Council of Europe also informs the Secretariat that the said Law stipulates that Romania considers itself bound by Article 25 of the European Social Charter (revised). Article 25 was not notified at the time when the instrument of ratification was deposited.

Given the above, the Permanent Representation of Romania declares that under item 1 of the instrument of ratification no. 490 deposited by Romania, **Article 26 should be read as Article 25.**

The Permanent Representation of Romania attaches the Romanian version of the Act no. 74 of 3 May 1999 and the English translation thereof

**Note by the Secretariat:** This declaration was made by Romania following the discovery of an error in its instrument of ratification.

### **14. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 173), 27 JANUARY 1999<sup>11</sup>**

<sup>11</sup> *Relevant provisions ETS 173 :*

**"Article 37 – Reservations**

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, reserve its right not to establish as a criminal offence under its domestic law, in part or in whole, the conduct referred to in Articles 4, 6 to 8, 10 and 12 or the passive bribery offences defined in Article 5.

2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it avails itself of the reservation provided for in Article 17, paragraph 2.

3 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which the requested Party considers a political offence.

4 No State may, by application of paragraphs 1, 2 and 3 of this article, enter reservations to more than five of the provisions mentioned thereon. No other reservation may be made. Reservations of the same nature with respect to Articles 4, 6 and 10 shall be considered as one reservation."

**AZERBAIJAN**, 11 February 2004, 19 March 2004, 18 March 2005

The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Convention in its territories occupied by the Republic of Armenia until these territories are liberated from that occupation (*the schematic map of the occupied territories is enclosed*).

**Note by the Secretariat:** Azerbaijan formulated a similar declaration to the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

**LATVIA**, 19 January 2005, 26 January 2005, 25 January 2006

With due regard to well-established principles of international law, especially in the field of extradition, the Republic of Latvia declares that it renews its reservation for the period set out in paragraph 1 of Article 38 of the Convention.

The Republic of Latvia considers that the issue of mutual legal assistance, beyond all doubts, constitutes one of the fundamental elements of suppression of all forms of crimes, inter alia, corruption. Nevertheless, the Republic of Latvia would like to stress, that in accordance with the principles of its legal order, observation of human rights and rule of law is the core element for providing mutual legal assistance to other States.

If there is sufficient ground to believe that the offence which the request for mutual legal assistance refers to could be considered a political offence, the national authorities in charge are under an obligation to review the aforementioned request in the light of safeguards provided to any person in accordance with human rights.

Furthermore, the Republic of Latvia would like to emphasize that it has made similar reservations to all international instruments in the penal field, if this instrument contains clauses for extradition or mutual legal assistance.

**Note by the Secretariat:** The renewed reservation reads as follows: "In accordance with Article 37, paragraph 3, of the Convention, the Republic of Latvia declares that it may refuse mutual legal assistance under paragraph 1 of Article 26 of the Convention, if the request concerns an offence which the Republic of Latvia considers a political offence."

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**"Article 38 – Validity and review of declarations and reservations"**

1 Declarations referred to in Article 36 and reservations referred to in Article 37 shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such declarations and reservations may be renewed for periods of the same duration.

2 Twelve months before the date of expiry of the declaration or reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the State concerned. No later than three months before the expiry, the State shall notify the Secretary General that it is upholding, amending or withdrawing its declaration or reservation. In the absence of a notification by the State concerned, the Secretariat General shall inform that State that its declaration or reservation is considered to have been extended automatically for a period of six months. Failure by the State concerned to notify its intention to uphold or modify its declaration or reservation before the expiry of that period shall cause the declaration or reservation to lapse.

3 If a Party makes a declaration or a reservation in conformity with Articles 36 and 37, it shall provide, before its renewal or upon request, an explanation to GRECO, on the grounds justifying its continuance."



**15. CIVIL LAW CONVENTION ON CORRUPTION (ETS No. 174), 4 NOVEMBER 1999**

**AZERBAIJAN**, 11 February 2004, 19 March 2004, 20 March 2005

The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Convention in its territories occupied by the Republic of Armenia until these territories are liberated from that occupation (*the schematic map of the occupied territories is enclosed*).

**Note by the Secretariat:** Azerbaijan formulated a similar declaration to the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

**16. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 182), 8 NOVEMBER 2001**<sup>12</sup>

<sup>12</sup> Relevant provisions ETS No. 182 :

**"Article 4 – Channels of communication**

1 Requests for mutual assistance, as well as spontaneous information, shall be addressed in writing by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels. However, they may be forwarded directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party and returned through the same channels.

2 Applications as referred to in Article 11 of this Convention and Article 13 of the Second Additional Protocol to this Convention shall in all cases be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.

3 Requests for mutual assistance concerning proceedings as mentioned in paragraph 3 of Article 1 of this Convention may also be forwarded directly by the administrative or judicial authorities of the requesting Party to the administrative or judicial authorities of the requested Party, as the case may be, and returned through the same channels.

4 Requests for mutual assistance made under Articles 18 and 19 of the Second Additional Protocol to this Convention may also be forwarded directly by the competent authorities of the requesting Party to the competent authorities of the requested Party.

5 Requests provided for in paragraph 1 of Article 13 of this Convention may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 of this Convention shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.

6 Requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the Convention may be made directly to the competent authorities. Any Contracting State may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of this paragraph, deem competent authorities.

7 In urgent cases, where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).

8 Any Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, reserve the right to make the execution of requests, or specified requests, for mutual assistance dependent on one or more of the following conditions:

- a that a copy of the request be forwarded to the central authority designated in that declaration;
- b that requests, except urgent requests, be forwarded to the central authority designated in that declaration;
- c that, in case of direct transmission for reasons of urgency, a copy shall be transmitted at the same time to its Ministry of Justice;
- d that some or all requests for assistance shall be sent to it through channels other than those provided for in this article.

9 Requests for mutual assistance and any other communications under this Convention or its Protocols may be forwarded through any electronic or other means of telecommunication provided that the requesting Party is prepared, upon request, to produce at any time a written record of it and the original. However, any Contracting State, may by a declaration addressed at any time to the Secretary General of the Council of Europe, establish the

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conditions under which it shall be willing to accept and execute requests received by electronic or other means of telecommunication.

10 The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Parties which provide for the direct transmission of requests for assistance between their respective authorities."

**"Article 11 – Spontaneous information**

1 Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under the Convention or its Protocols.

2 The providing Party may, pursuant to its national law, impose conditions on the use of such information by the receiving Party.

3 The receiving Party shall be bound by those conditions.

4 However, any Contracting State may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the providing Party under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission."

**"Article 13 – Temporary transfer of detained persons to the requested Party**

1 Where there is agreement between the competent authorities of the Parties concerned, a Party which has requested an investigation for which the presence of a person held in custody on its own territory is required may temporarily transfer that person to the territory of the Party in which the investigation is to take place.

(...)

3 Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided promptly to the requested Party.

(...)

7 Any Contracting State may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that before an agreement is reached under paragraph 1 of this article, the consent referred to in paragraph 3 of this article will be required, or will be required under certain conditions indicated in the declaration. "

**"Article 17 – Cross-border observations**

1 Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorised to continue their observation in the territory of another Party where the latter has authorised cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorisation.

On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.

The request for assistance referred to in the first sub-paragraph must be sent to an authority designated by each Party and having jurisdiction to grant or to forward the requested authorisation.

2 Where, for particularly urgent reasons, prior authorisation of the other Party cannot be requested, the officers conducting the observation within the framework of a criminal investigation shall be authorised to continue beyond the border the observation of a person presumed to have committed offences listed in paragraph 6, provided that the following conditions are met:

- a the authorities of the Party designated under paragraph 4, in whose territory the observation is to be continued, must be notified immediately, during the observation, that the border has been crossed;
- b a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted without delay.

Observation shall cease as soon as the Party in whose territory it is taking place so requests, following the notification referred to in a. or the request referred to in b. or where authorisation has not been obtained within five hours of the border being crossed.

(...)

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate both the officers and authorities that they designate for the purposes of paragraphs 1 and 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

(...)"

**"Article 18 – Controlled delivery**

1 Each Party undertakes to ensure that, at the request of another Party, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.

2 The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Party, with due regard to the national law of that Party.

3 Controlled deliveries shall take place in accordance with the procedures of the requested Party. Competence to act, direct and control operations shall lie with the competent authorities of that Party.

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration."

#### **"Article 19 – Covert investigations**

1 The requesting and the requested Parties may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).

2 The decision on the request is taken in each individual case by the competent authorities of the requested Party with due regard to its national law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Parties with due regard to their national law and procedures.

3 Covert investigations shall take place in accordance with the national law and procedures of the Party on the territory of which the covert investigation takes place. The Parties involved shall co-operate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.

4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of paragraph 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration. "

#### **"Article 26 – Data protection**

1 Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:

- a for the purpose of proceedings to which the Convention or any of its Protocols apply;
- b for other judicial and administrative proceedings directly related to the proceedings mentioned under a.,
- c for preventing an immediate and serious threat to public security.

2 Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data had been transferred, or the data subject.

3 Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols where

- such data is protected under its national legislation, and
- the Party to which the data should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.

4 Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols may require the Party to which the data have been transferred to give information on the use made with such data.

5 Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or one of its Protocols, personal data transmitted to another Party not be used by the latter for the purposes of paragraph 1 unless with its previous consent."

#### **"Article 27 – Administrative authorities**

Parties may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities they will deem administrative authorities for the purposes of Article 1, paragraph 3, of the Convention."

#### **"Article 33 – Reservations**

1 Reservations made by a Party to any provision of the Convention or its Protocol shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention or its Protocol.

2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the right not to accept wholly or in part any one or more of Articles 16, 17, 18, 19 and 20. No other reservation may be made.

3 Any State may wholly or partially withdraw a reservation it has made in accordance with the foregoing paragraphs, by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

**SWITZERLAND**, 4 October 2004, 19 October 2004, 18 October 2005

Switzerland requires that the personal data transferred by it to another Party for the purposes indicated in Article 26, paragraph 1, letters a and b, cannot be used without the consent of the person concerned except with the agreement of the Federal Office of Justice for the purposes of procedures for which Switzerland could have, according to the terms of the Convention or the Protocol, refused or limited the transmission or the use of personal data.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 26 of the Convention.

Switzerland declares that it will deem as Swiss administrative authorities for the purposes of Article 1, paragraph 3, of the Convention the administrative services of the Confederation and of the cantons which, under Federal or Cantonal Law, can investigate offences and are empowered, once the investigation is concluded, to ask for the opening of judicial proceedings that may result in a conviction.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 27 of the Convention.

**ROMANIA**, 29 November 2004, 3 December 2004, 2 December 2005

In accordance with Article 15, paragraph 9, of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 4 of the Second Additional Protocol, the requests for international mutual assistance and the judicial documents may be transmitted through electronic means of communication or any other telecommunication means, on condition that the requesting Party transmits, at the same time, the original request and/or acts.

In accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 4 of the Second Additional Protocol, the central authorities for Romania are the Ministry of Justice for requests for mutual assistance formulated during the trial, and the Prosecutor's Office of the High Court of Cassation and Justice for requests formulated respectively during investigations and prosecutions. For the requests for mutual assistance referred to in Article 15, paragraph 3, of the European Convention, the central authority is the Ministry of Administration and Interior.

In accordance with Article 24 of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 6 of the Second Additional Protocol, the Romanian judicial authorities are the courts and the prosecutor's offices to the courts.

In accordance with Article 13, paragraph 7, of the Second Additional Protocol, to achieve the agreement stipulated by paragraph 1 of Article 13, the consent as provided for in paragraph 3 of Article 13 will be required.

In accordance with Article 17, paragraph 4, of the Second Additional Protocol, police officers are designated as competent officers within the Ministry of Administration and Interior for the purposes of paragraphs 1 and 2 of Article 17. The competent central authority for receiving requests for mutual assistance foreseen in Article 17, paragraphs 1 and 2, is the Ministry of Justice.

In accordance with Article 18, paragraph 4, of the Second Additional Protocol, the competent authority for the purposes of Article 18 is the Prosecutor's Office to the High Court of

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4 Any Party which has made a reservation in respect of any of the articles of this Protocol mentioned in paragraph 2 above, may not claim the application of that article by another Party. It may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it."

Cassation and Justice. Controlled deliveries subject to a request for international mutual assistance addressed to Romania must be authorised by the competent prosecutor, in accordance with the Romanian law.

In accordance with Article 19, paragraph 4, of the Second Additional Protocol, the competent authority for the purposes of Article 19 is the Prosecutor's Office to the High Court of Cassation and Justice. The conduct of criminal covert investigations, on the basis of a request for international mutual assistance addressed to Romania, must be authorised by the competent prosecutor, in accordance with Romanian law.

**Note by the Secretariat:** The declarations have been formulated in accordance with Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol, Article 24 of the Convention as amended by Article 6 of the Second Additional Protocol, and with Articles 13, 17, 18 and 19 of the Second Additional Protocol.

**SLOVAKIA**, 11 January 2005, 26 January 2005, 25 January 2006

The Slovak Republic avails itself of the opportunity provided by Article 33, paragraph 2, of the Second Additional Protocol and does not accept wholly the Articles 16, 17, 19 and 20 of the Second Additional Protocol.

The Slovak Republic will execute requests under Article 18 of the Second Additional Protocol only if they relate to the controlled import, export and transit of a delivery provided the circumstances of the case justify the assumption that the delivery without proper permit contains narcotics, psychotropic substances, precursors, poisons, nuclear and other similar radioactive materials, counterfeit money or securities, firearms or weapons of mass destruction, ammunition or explosives and the requesting party undertakes to provide adequate protection to the information obtained as a result of the assistance.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 33 of the Second Additional Protocol.

**17. PROTOCOL No. 13 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONCERNING THE ABOLITION OF THE DEATH PENALTY IN ALL CIRCUMSTANCES (ETS No. 187), 3 MAY 2002**

**UNITED KINGDOM**, 1 April 2004, 5 May 2004, 4 May 2005

The Government of the United Kingdom declares that it extends the application of Protocol 13 to the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, being a territory for whose international relations the United Kingdom is responsible.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 56 of the Convention.

**UNITED KINGDOM**, 16 April 2004, 5 May 2004, 4 May 2005

The Government of the United Kingdom declares that it extends the application of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms to the Isle of Man, the Bailiwick of Guernsey and the Bailiwick of Jersey.

**Note by the Secretariat:** The declaration has been formulated in accordance with Article 56 of the Convention.

18. **PROTOCOL NO. 14 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, AMENDING THE CONTROL SYSTEM OF THE CONVENTION (CETS NO. 194), 13 MAY 2004**

**POLAND**, 10 November 2004, 3 December 2004, 2 December 2005

Declaration made at the time of signature of the treaty:

The Government of the Republic of Poland declares that it interprets the amendments introduced by Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, in accordance with the provisions of Article 59, paragraph 3, of the said Convention, following the general principle of non-retroactivity of treaties, contained in Article 28 of the Vienna Convention on the Law of Treaties of 23 May 1969.

<p><b>Note by the Secretariat:</b> The declaration formulated by Poland is an interpretative declaration of the Protocol, based on the general principle of non-retroactivity of treaties.</p>
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19. **CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (CETS NO. 112), 21 MARCH 1983**

**MAURITIUS**, 18 June 2004, 25 June 2004, 24 June 2005

Declaration:

In accordance with Article 20, paragraph 1, the Republic of Mauritius declares that the Convention shall apply to the Republic of Mauritius which, pursuant to section 111 of the Constitution of Mauritius includes the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia.

APPENDIX 1 - Schematic map - Azerbaijan

### Schematic map of the territories of the Republic of Azerbaijan occupied by the Republic of Armenia

